

**TROY CITY COUNCIL
FINANCE STANDING COMMITTEE AGENDA
December 7, 2017
6:30 P.M.**

Pledge of Allegiance
Roll Call

ORDINANCES

131. Ordinance Amending The 2017 General Fund Budget (Council President Mantello) (At The Request Of The Administration)

132. Ordinance Authorizing Settlement Of Claim, To Wit: Fogarty V. City Of Troy, Civil Case No. 15-CV-01454-GLS-DJS (Council President Mantello) (At The Request Of The Administration)

ORDINANCE AMENDING THE 2017 GENERAL FUND BUDGET

The City of Troy, convened in City Council, ordains as follows:

Section 1. The City of Troy 2017 budget is herein amended as set forth in Schedule A entitled:

December 2017 Budget Amendments – General Fund CityView Upgrade

which is attached hereto and made a part hereof

Section 2. This act will take effect immediately.

Approved as to form December 4, 2017

James A. Caruso, Corporation Counsel

MEMO IN SUPPORT

The City has been working on upgrading the software used within Code Enforcement throughout 2017. The ordinance amends the budget for change orders from the software company to provide training and assist in finishing the final stages of the upgrade.

The funding is provided partially from the Zombie Grant, partially from other appropriation lines within the BIS Department and the remainder from the Contingency.

Schedule A

December 2017 Budget Amendments - General Fund CityView Upgrade

Department	Account No.	Description	Original Budget*	Change (+ / -)	Revised Budget
Revenues					
Public Safety	A.3000.3389.0113.0000	Zombie Grant	77,495.00	7,392.00	84,887.00
Expenditures					
BIS	A.1680.0409.0000.0000	Consultant Services	0.00	54,747.00	54,747.00
BIS	A.1680.0303.0000.0000	Other Material & Supplies	36,135.00	(3,696.00)	32,439.00
BIS	A.1680.0404.0027.0000	Maintenance Contracts	113,794.00	(13,860.00)	99,934.00
Contingency	A.1990.0418.0000.0000	Contingency	165,940.00	(29,799.00)	136,141.00
Net Impact On General Fund Budget			<u>0.00</u>		

* Or as previously amended

**ORDINANCE AUTHORIZING SETTLEMENT OF CLAIM, TO WIT:
FOGARTY V. CITY OF TROY, CIVIL CASE NO. 15-CV-01454-GLS-DJS**

The City of Troy, in City Council, convened, ordains as follows:

- Section 1.** The above named plaintiff commenced this civil rights action for excessive force.
- Section 2.** The Corporation Counsel is authorized to settle the above litigation in a manner that conforms in all material respects with a Stipulation of Settlement. The Corporation Counsel shall obtain a General Release in full satisfaction of the claims prior to payment.
- Section 3.** The Comptroller is authorized and directed to issue a settlement check in the amount of \$18,000.00, said sums to be payable out of the Judgments and Claims Account.
- Section 4.** This Ordinance shall take effect immediately.

Approved as to form, December 4, 2017

James A. Caruso, Esq., Corporation Counsel

MEMORANDUM IN SUPPORT

During the early morning hours of December 23, 2012, an incident occurred in an alleyway in the City of Troy involving Plaintiff Francis Fogarty and two (2) City of Troy Police Department Officers. On that date, Plaintiff claims that he was subjected to excessive physical force at the hands of Troy Police Department Officer Kyle Jones, who he alleges struck him several times with his baton. Plaintiff alleges that he suffered a head injury as a result of being struck by Officer Jones.

Subsequently, an investigation was conducted by the Troy Police Department regarding the use of force by Officer Jones during this incident. That investigation determined that Officer Jones was guilty of using excessive force during the arrest of Plaintiff by himself and fellow Troy Police Officer Robert Smith.

Plaintiff commenced a lawsuit against the City of Troy and Police Officers Jones and Smith in the Federal District Court based upon an alleged violation of his civil rights under 42 USC Section 1983. Settlement negotiations ensued and Plaintiff demanded \$90,000.00 to resolve this lawsuit. His demand was later reduced and Counsel eventually was able to get Plaintiff to further reduce his settlement demand. Plaintiff recently agreed to resolve this lawsuit for the amount of \$18,000. It should be noted that, while counsel believes that Plaintiff's may not be able to establish significant damages at trial, there is a very real danger that he would nevertheless be awarded very substantial attorney's fees under 42 USC Section 1988.

Thus, in order to avoid the potential of a much higher jury award based upon the facts of this case, especially when considering the very damaging results of the internal police investigation against Officer Jones, the possibility of a large attorney's fees award under 42 USC Section 1988, even if Plaintiff does not receive a significant damages award, and in order to avoid significant further expenditures in terms of litigation costs incurred in preparing for and trying this case, it is strongly recommended that this matter be settled for \$18,000 as a practical business decision and that said amount be approved by the Troy City Council.